

Reply to comments of the National Multihousing Council, the National Apartment Association, The Institute of Real Estate Management, the National Association of Real Estate Investment Trusts and the Real Estate Roundtable (NMHC):

In their comments, the NMHC opposes Commission regulation of any contracts related to provision of video services in MDUs. Much of their comments concern the allocation of wiring infrastructure costs between apartment owners and video-voice-data services providers, in particular, the reimbursement of wiring costs to owners in return for exclusivity.

While most of the NMHC interest concerns apartment MDUs, I will attempt to extrapolate their comments to the concerns of single family home developments.

My home is in the Live Oak Preserve (LOP) development in Tampa, FL. This MDU consists of single family homes and townhomes and was developed by Transeastern Homes. Without input from any residents, Transeastern set up a 15 year, exclusive contract with basically its subsidiary, Century Communications, to provide LOP with cable TV, internet and home security monitoring services. The exclusive, bulk billing agreement is administered through HOA, mandatory fees. The HOA is controlled by the current developer which is now Engle Homes.

In their statements, the NMHC proposes "Exclusive marketing agreements and bulk service agreements are valuable tools that benefit residents, apartment owners and service providers." Further, "bulk agreements allow property(apartment) owners to provide their residents specific benefits tailored to the needs of the community such as particular programming packages and community channels."

Century Communications operates in over 20 Florida communities and other than the local major network affiliates there are little differences in the channel lineups to any communities. LOP is a very diverse community made up of many nationalities speaking many languages. I have lived here three years and have yet to experience any survey of my voice-data-video needs that would tailor their channel lineup to better serve LOP.

As for competitive balance, the NMHC states "exclusive marketing agreements are not a significant barrier to the deployment of competitive services by the telephone industry" and "not only do exclusive marketing agreements permit competitive entry but there is evidence that competitive providers are willing and able to compete in buildings that are already subject to existing exclusive marketing agreements." The NMHC adds "when Verizon or another competitor does choose to serve properties that are already served by an incumbent cable operator, those projects are generally larger buildings with affluent residents."

In LOP, Verizon did recently overbuild the development I'm sure at their own great expense. Brighthouse, the dominant cable provider in the Tampa market, has not chosen to overbuild LOP. Now Verizon is finding that indeed its only subscribers are the very affluent because they are the only residents who can afford to pay for duplicate services. The only other LOP customers Verizon can get are those who work at home via the internet and MUST take Verizon to get the speed and reliability not being provided by Century's internet service. Even DBS providers find it difficult to operate in LOP since the HOA frequently denies requests to put dish receivers on the owners' rooftops. So much for not being a barrier to competition.

According to the NMHC "without exclusive contracts, the large cable companies and local exchange carriers will dominate the market and apartment residents and owners will have fewer competitive options." Well here in LOP, the exclusive contract with Century Communications gives us these options: a poor channel lineup, few HD channels, no TIVO or similar services compatibility, frequent outages during thunder storms, incorrect blackout of sports, and slow, unreliable internet service.

The NMHC goes on to state "But it is well established in the multi-family communications industry, that the most critical factor influencing decisions to serve an MDU property is the cost of installing or upgrading existing infrastructure." I'm not sure why Brighthouse has chosen not to overbuild LOP but I suspect a 15 year,

exclusive contract may have been THE critical factor. Why Verizon chose to overbuild despite the exclusive contract is a more difficult mystery to me. Maybe they knew of the residents discontent with the substandard product and service by Century and figured LOP residents would be willing to make sacrifices to pay for the duplicate services.

One final comment by the NMHC resonated with me as they point out "in most states, building owners have complete discretion over which cable providers to admit to their properties" and "owners make those choices based on which provider or providers can best meet the needs of the residents." As pointed out before LOP residents have no discretion in using Century Communications. They **MUST** pay for substandard products and customer service because of an insidious, exclusive contract foisted upon us by a greedy developer. The choice of Century was certainly not based upon the needs of LOP residents but on the desire of the developer to have a steady, excessive profit for 15 years.

This situation facing LOP residents has been echoed by others around the country on the 07-51 docket. While the circumstances faced by apartment owners are somewhat different than those faced by single family home owners, the frustrations of the customers stuck with poor voice-data-video products and poor customer service from a provider with an exclusive, long term contract and no incentive to change are the same.

Please extend the ban on exclusive contracts to all voice, data and videos services to all MDUs. Give us an exit-strategy to the myriad of problems these contracts have created.